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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 10030573-1	
I hereby certify that this correspondence is being electronically filed with United States Patent and Trademark Office via EFS on <u>April 28, 2008</u> Signature <u>/Gregory W. Osterloth/</u> Typed or printed name <u>Gregory W. Osterloth</u>		Application Number 10/722,183	Filed 11-24-2003
		First Named Inventor Robert Stanley Kolman	
		Art Unit 2863	Examiner Toan M. Le

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

/Gregory W. Osterloth/

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

Signature

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April 28, 2008

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.

☒ *Total of 1 forms are submitted.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.	:	10/722,183	Confirmation No. 7018
Applicant	:	Robert Stanley Kolman, et al.	
Filed	:	November 24, 2003	
TC/A.U.	:	2863	
Examiner	:	Le, Toan M.	
Docket No.	:	10030573-1	

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PRE-APPEAL BRIEF

Sir:

In response to the Final Office Action of December 28, 2007 and the Advisory Action of March 18, 2008, applicants have filed a "Notice of Appeal" and "Pre-Appeal Brief Request for Review" with this "Pre-Appeal Brief".

Claims 1-20 remain in this application. Claims 1-7, 10-16, 19 and 20 stand rejected, as discussed below. Claims 8, 9, 17 and 18 stand objected to as being dependent upon a rejected base claim, but would be allowable if re-written in independent format.

1. Rejection of Claims 1-7, 10-16, 19 and 20 Under 35 USC 103(a)

Claims 1-7, 10-16, 19 and 20 stand rejected under 35 USC 103(a) as being unpatentable over Colby et al. (U.S. Pat. No. 6,622,271; hereinafter "Colby") in view of Gygi et al. (U.S. Pub. Pat. App. No. 2003/0235156; hereinafter "Gygi").

Independent claim 1 recites:

1. Apparatus, comprising:
computer readable media; and
program code, stored on the computer readable media, comprising:
code to define a user interface;
code to detect invalid test definition data in user input and, upon
detection of invalid test definition data, prompt a user to select a valid data

option from a set of valid data options; said prompting being undertaken through the user interface; and
code to receive a valid data option selected through the user interface, and to update the invalid test definition data with the valid data option.

With respect to Applicants' claim 1, the Office Action urges that Colby teaches:

....code to receive a valid data option selected through the user interface....

12/28/07 Office Action, p. 1.

Also with respect to Applicants' claim 1, the Office Action acknowledges:

Colby et al. do not teach upon detection of invalid test definition data, prompt a user to select a valid data option from a set of valid data option, said prompting being undertaken through the user interface...

12/28/07 Office Action, p. 2.

Applicants respectfully submit that Colby fails to disclose "code to receive a valid data option selected through the user interface" as recited in claim 1. Firstly, having acknowledged that Colby does not disclose prompting a user to select a valid data option from a set of valid data options, the Office Action cannot logically assert that Colby teaches code to receive a valid data option selected through the user interface. A valid data option cannot be selected (i.e., chosen from a list presented to the user) and received through a user interface when, as acknowledged by the Office Action, the reference does not disclose presenting the user with a list of valid data options in the first place.

Additionally, the portion of Colby cited in the Office Action as allegedly disclosing "code to receive a valid data option selected through the user interface" does not, in fact, disclose this feature. Column 11, lines 52-57 of Colby discuss providing a warning message to the user if a problem is detected so that appropriate adjustments can be made. Such a disclosure falls well short of "code to receive a valid data option selected through the user interface" since the teaching of a warning

message and subsequently allowing adjustments to be made is silent as to whether the warning message displays the set of valid data options needed to accomplish the step of receiving a valid data option selected through the user interface. A warning message as described in Colby suggests a message such as "Invalid Entry," but does not suggest that the warning message also provides a set of valid data options to select from. Similarly, a teaching of allowing adjustments as described in Colby suggests that the user may try another data option but does not suggest that the user receives any guidance (i.e., a set of valid data options to select from) from the program in making the adjustments.

Accordingly, contrary to the position taken in the Office Action, Colby fails to disclose code to receive a valid data option selected through the user interface as recited in claim 1, thereby representing a clear factual deficiency in the rejection.

In order to address the acknowledged deficiency in Colby, the Office Action asserts that Gygi discloses:

code to detect invalid test definition data in user input and, upon detection of invalid test definition data, prompt a user to select a valid option from a set of valid options...

12/28/07 Office Action, p. 3.

Applicants respectfully disagree. Contrary to the position stated in the Office Action, Gygi does not disclose prompting a user to select a valid option from a set of valid options upon detection of invalid test definition data. As described at, for example, paragraphs [0048], [0050], and [0051], the code disclosed in Gygi allows a test designer to provide a test user with a user interface that guides the user through the different values that need to be entered prior to starting the test. In paragraph [0048], Gygi discloses that the interface may include information to prompt the test operator for desired values. However, such prompting does not occur because the test user has entered an invalid test definition. In fact, the prompting occurs before the user has even had the chance to enter test definition data. The prompting occurs as a means to guide the user through the information that needs to be entered in

order to begin the test. Ultimately, any prompting in Gygi is preemptive, rather than reactionary.

Paragraph [0051] of Gygi discloses that the user interface may provide help messages to describe, for example, the permissible values for a parameter. However, as described above, these help messages are provided preemptively and not in reaction to an invalid test definition data entry. When the user sits down in front of the user interface and is prompted to enter, e.g., the duration of the test, a help message may be included (or may be brought up by the user) that indicates the entered value must be a number and not a letter. There is no disclosure in Gygi of such a help message appearing after the user inputs an invalid test definition data entry.

Applicants respectfully submit that none of the prompts or help messages disclosed in Gygi are disclosed as occurring in response to an invalid test definition data entry, and therefore the reference does not disclose prompting a user to select a valid option from a set of valid options upon detection of invalid test definition data as recited in claim 1 of the instant application. Thus the rejection set forth in the Office Action contains a clear factual deficiency.

Since the teaching of prompts and warning messages in Gygi all occur as a part of a preemptive "start-up" procedure, Applicants respectfully submit that it would not be obvious to one of ordinary skill in the art to combine the teachings of Gygi with the invention of Colby such that the prompts or warnings occur after test definition data has been entered. At best, it appears the teachings of Gygi could be combined with Colby such that start up prompts are provided before the first test data entry in the method of Colby. The non-obviousness of the combination proposed in the Office Action represents a clear legal deficiency in the rejection.

Applicants believe that claims 2-7, 10-16, 19 and 20 are allowable for reasons similar to why claim 1 is believed to be allowable.

Finally, with respect to claims 2 and 16, Applicants respectfully submit that no portion of either Colby or Gygi disclose "code to compile the set of valid data options based on a context of the invalid test definition data." The portion of the Gygi reference cited as disclosing this feature (paragraph [0048]) teaches that the test

operator may stipulate the permissible values for definitions. However, this teaching does not rise to the level of analyzing an invalid test definition data entry and providing possible valid entries based on the context of the invalid entry. For example, in a field where only letters A, B, C and D are valid entries, a user might input the letter "S". In the method of Gygi, the code may provide a message to the user that says "Only A, B, C or D is Permitted" since those are all of the permissible values while performing no analysis on the invalid entry to try and narrow the list of options. The program only knows that the entry is invalid and that possible valid entries are A, B, C and D. To the contrary and according to claims 2 and 16 of the claimed invention, the code might look at the invalid entry, recognize that A and D are the keys next to the letter S on a standard keyboard, and therefore only suggest A and D as possible valid entries. The code uses the context of the invalid entry to provide the user with a better list of possible valid entries.

Absent a more specific teaching as to using the context of the invalid entry to provide possible valid entries, Applicants respectfully submit that neither Colby nor Gygi disclose the subject matter of claims 2 or 16. Failure of the references to disclose this element of the claims represents a clear factual deficiency in the rejection.

Although Applicants believe that various other claims are allowable for various other reasons, Applicants have limited the issues that need to be considered during the Pre-Appeal Conference to the above facts and observations.

For at least the foregoing reasons, Applicants respectfully request that the rejection of claims 1-7, 10-16, 19 and 20 be withdrawn and this application be allowed to issue.

Respectfully submitted,
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